

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

PEDRO TORRES,)	CASE NO. 1: 09 CV 191
)	
Petitioner,)	
)	JUDGE DONALD C. NUGENT
v.)	
)	
MAGGIE BEIGHTLER, Warden,)	<u>MEMORANDUM OPINION</u>
)	<u>AND ORDER</u>
Respondent.)	

This matter comes before the Court upon the Report and Recommendation of Magistrate Judge Nancy A. Vecchiarelli. The Report and Recommendation (ECF # 11), filed on July 30, 2009, is ADOPTED by this Court, and Petitioner's Petition for Writ of Habeas Corpus (ECF # 1), filed pursuant to 28 U.S.C. § 2254, on January 27, 2009, is denied.

Pursuant to Local Rule 72.2, this matter was referred to Magistrate Judge Vecchiarelli for the preparation of a report and recommendation. On July 30, 2009, Magistrate Judge Vecchiarelli recommended that the Petition be denied. On August 12, 2009, Petitioner filed objections to the Report and Recommendation. (ECF # 12.)

The Court has reviewed the Report and Recommendation *de novo*. See *Thomas v. Arn*, 474 U.S. 140 (1985). Moreover, it has considered all of the pleadings, affidavits, motions, and filings of the parties. Despite Petitioner's assertions to the contrary, the Court finds Magistrate Judge Vecchiarelli's Report and Recommendation to be well-written, well-supported, and correct. The Court likewise finds that Petitioner's grounds for relief lack merit, given that Petitioner had notice and fair warning of the criminality of the conduct and the severity of the penalty applicable to such conduct. This Court also finds that the state court's holding is not

contrary to or an unreasonable application of clearly established federal law. As such, the Court finds Petitioner's objections to the Report and Recommendation to be lacking in merit.

Therefore, the Report and Recommendation is ADOPTED in its entirety (ECF # 11), the Petition for Writ of Habeas Corpus is DENIED (ECF # 1), and Petitioner's objections are thereby DENIED (ECF # 12).

Furthermore, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith, and there is no basis upon which to issue a certificate of appealability. 28 U.S.C. § 2253(c); FED. R. APP. P. 22(b).

IT IS SO ORDERED.

s/ Donald C. Nugent
DONALD C. NUGENT
United States District Judge

DATED: August 27, 2009